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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,	Case No. 2:16-CR-00320-LRH-(VCF)
Plaintiff,	ORDER
v.	
JACK BENJAMIN HESSIANI,	
Defendant.	

Before the court is defendant's Motion for the Preparation of a Pre-Plea Presentence Report. ECF No. 45. The United States has responded in non-opposition to defendant's motion. ECF No. 51.

There is no statutory authority authorizing an advisory pre-plea presentence report and this court is reluctant to order one based upon policy against advisory functions without a controversy between parties. However, the court respects defendant's concern of the possible application to him of a fifteen-year statutory minimum sentence in this action under the Armed Career Criminal Act ("ACCA"), 18 U.S.C. § 924(e).

The court has communicated with the U.S. Probation Office and is informed that supervisors Beckner and Gulla are available to defense counsel to discuss their opinions on the applicability of ACCA exposure issues. The court recommends such discussions.

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1 Alternatively, if this issue is presenting a barrier to a successful plea negotiation,
2 the court would be inclined to accept a plea agreement that was conditioned upon the
3 court's ruling at sentencing concerning the applicability of the ACCA statutory minimum
4 sentence.

5 Good cause appearing, defendant's motion for the preparation of a pre-plea
6 presentence report (ECF No. 45) is hereby DENIED without prejudice.

7 IT IS SO ORDERED.

8 DATED this 15th day of June, 2017.



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE